

Revised

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ASSOCIATED SAND & GRAVEL, INC.,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 1062

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$250.00 civil penalty for allegedly causing or allowing the emission of an air contaminant in violation of respondent's Regulation I, came on for formal hearing before the Pollution Control Hearings Board (Art Brown, Chairman, W. A. Gissberg and Chris Smith) in Seattle, Washington on December 6, 1976.

Appellant was represented by Gerald R. Crane its Asphalt Division Engineer; respondent was represented by and through its attorney, Keith D. McGoffin. Hearing Examiner David Akana presided.

Having heard the testimony and being fully advised, the Board makes

1 and enters the following

2 FINDINGS OF FACT

3 I

4 Respondent, pursuant to RCW 43.21B.260, has filed with this Board
5 a certified copy of its Regulation I containing respondent's regulations
6 and amendments thereto.

7 II

8 On July 14, 1976 at approximately 1:00 P.M., respondent's air
9 inspector saw gray dust emissions from the screening area of appellant's
10 asphalt batch plant located in Arlington. Emissions ranging from
11 Ringelmann 2 to 3-1/2 were observed for ten consecutive minutes. The
12 air inspector then took two photographs of the emissions. For this
13 occurrence, appellant received a Notice of Violation and Notice of
14 Civil Penalty in the amount of \$250.00 which penalty is the subject
15 matter of this appeal.

16 III

17 Appellant had been notified of emissions from the same screening
18 section of the asphalt plant about one week prior to the observed
19 violation. Appellant's foreman and plant operator at the site was
20 "short-handed and just hadn't had time to fix" the cause of the subject
21 emission.

22 IV

23 There are very few complaints of air emission violations in this
24 locale.

25 V

26 Appellant has been very cooperative with the agency concerning any

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 | air pollution problems.

2 | VI

3 | Appellant can remedy the dust emission easily because it "is a
4 | very minor type of emission and can be controlled with very little
5 | cooperation between the Pollution Authority Inspector and the Plant
6 | Operator."

7 | VII

8 | Section 9.03(b) of Regulation I provides in part that:

9 | [I]t shall be unlawful for any person to cause or allow
10 | the emission of any air contaminant for a period or periods
11 | aggregating more than three (3) minutes in any one hour,
12 | which is:

13 | . . .
14 | (1) Darker in shade than that designated as No. 1 (20%
15 | density) on the Ringelmann Chart

16 | Section 3.29 provides for a penalty of up to \$250.00 per day for
17 | each violation of Regulation I.

18 | VIII

19 | Any Finding of Fact which should be deemed a Conclusion of Law
20 | is hereby adopted as such.

21 | From these Findings the Pollution Control Hearings Board comes to
22 | these

23 | CONCLUSIONS OF LAW

24 | I

25 | The Board has jurisdiction over the persons and subject matter of
26 | this appeal.

27 | II

28 | Appellant violated Section 9.03(b) of Regulation I for which a
29 | \$250.00 civil penalty pursuant to Section 3.29 was properly issued.

30 | FINAL FINDINGS OF FACT,
31 | CONCLUSIONS OF LAW AND ORDER 3

1 The penalty is reasonable in amount.

2 III

3 The penalty should be affirmed.

4 IV

5 Any Conclusion of Law which should be deemed a Finding of Fact
6 is hereby adopted as such.

7 From these Conclusions the Pollution Control Hearings Board
8 enters this

9 ORDER

10 The \$250.00 civil penalty is affirmed.

11 DATED this 17th day of December, 1976.

12 POLLUTION CONTROL HEARINGS BOARD

13 Art Brown

14 ART BROWN, Chairmar

15 W. A. Gissberg

16 W. A. GISSBERG, Member

17 Chris Smith

18 CHRIS SMITH, Member

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27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER